

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Patricia M. Sawasky,

Plaintiff,

vs.

Commissioner of Social Security
Administration,

Defendant.

Civil Action No. 1:12-156-RMG

ORDER

Plaintiff filed this *pro se* action seeking review of the decision of the Social Security Administration relating to the repayment of overpaid Social Security benefits. In accord with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to the Magistrate Judge for pretrial handling. The Magistrate Judge issued a Report and Recommendation ("R & R") on April 26, 2012, recommending that the action be dismissed without prejudice and without issuance of service of process because Plaintiff had not exhausted her administrative remedies. (Dkt. No. 21). Plaintiff was advised that she had 14 days to file written objections to the R & R and would have limited review and a waiver of her right to appeal if she failed to make timely written objections. *Id.* at 7. Plaintiff filed no objections to the R & R.

A review of the record before the Court indicates that Plaintiff contests a determination by the Social Security Administration of the amount of repayment required from an overpayment of Social Security benefits. It is uncontested that following the challenged administrative

decision regarding overpayment, Plaintiff did not request a reconsideration of the Administration's initial determination or otherwise exhaust her available administrative remedies. *Id.* at 5. The "general rule" in Social Security appeals is that exhaustion of administrative remedies is essential to obtain federal court review "as a matter of preventing premature interference with agency processes, so that the agency may function efficiently and so that it may have an opportunity to correct its own errors . . .". *Weinberger v. Salfi*, 422 U.S. 749, 765 (1975).

The Court, having reviewed the R & R, the record before the Court and the applicable case law, finds that the Magistrate Judge has ably and comprehensively addressed the factual and legal issues in this matter. Therefore, the Court hereby adopts the R & R as the Order of the Court. This matter is dismissed without prejudice and without issuance and service of process.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Gergel', is written over a horizontal line.

Richard Mark Gergel
United States District Judge

May 15 2012
Charleston, South Carolina